BANKRUPTCY—INSURANCE POLICIES AS ASSETS.—A bankrupt holding policies of life insurance payable to his estate, which policies had a cash surrender value, died after petition was filed, but before adjudication, without redeeming them. *Held,* the privilege of redemption conferred by § 70a (5) is personal and cannot be asserted by the bankrupt's personal representatives, and the matured policies pass to the trustee. *Partridge* v. *Andrews* (1911) 191 Fed. 325.

The sole question is as to the effect, upon insurance policies within the proviso of § 70a (5), of a bankrupt's death between filing of petition and adjudication. In a case where the bankrupt died after adjudication, it has been held that the privilege was not personal, but survived to the administrator—*Van Kirk* v. *Vermont State Co.* 140 Fed. 38. The time of death—before or after adjudication—would seem not to be material, for it is well settled that the date of filing the petition is the date of cleavage, for most purposes. *In re Pease,* 4 A. B. R. 578; *In re Burka,* 104 Fed. 326. This principle has been invoked to stay attachments by creditors after filing of petition, *State Bank of Chicago* v .*Cox,* 143 Fed. 91; as well as to determine jurisdiction between two courts, *In re Elmira Steel Co.,* 109 Fed. 456. As a basis of decision *Van Kirk* v. *Vermont State Co., supra* assumed that policies do not pass to the trustee until after the redemption period and that it is the duty of the trustee, not of the bankrupt, to ascertain from the company the "cash surrender value." This premise is inconsistent with *In re Lange,* 91 Fed. 361; *In re Steele,* 98 Fed. 78; *In re Slingluff,* 106 Fed. 154; *In re Orear,* 178 Fed. 632, 30 L. R. A. (N. S.) 990, which hold, with the principal case that the bankrupt's title at the date of filing the petition, together with its value then contingent upon death, passes to the trustee immediately upon his qualification, subject only to the possibility of redemption.

CARRIERS—DUTY TOWARD ALIGHTING PASSENGER.—Plaintiff, while in the act of alighting from one of defendant's street cars, was thrown to the street, due to the conductor's negligently giving the motorman the signal to start the car. An instruction that "employees are bound and required to ascertain and know that no passenger is in the act of alighting from the car before putting it in motion again," *held,* erroneous, and new trial granted. *Caughell* v. *Indianapolis Traction & Terminal Co.* (Ind. App. 1912) 97 N. E. 1028.

The instruction given by the lower court would seem to be in accord with the weight of authority. "The high degree of care which the law puts upon the carrier of passengers is not fulfilled in the case of a street railway carrier, unless its servants, before putting a car in motion, *see and know* that all passengers in the act of alighting have succeeded in doing so in safety, and that no passenger is in such a situation as to be put in peril by the starting of the car," 3 THOMPSON, NEGLIGENCE, § 3520. The following cases announce the same rule: *Washington & G. R. Co.* v. *Harmon,* 147 U. S. 571, 37 L. Ed. 284, 13 Sup. Ct. 557; *Birmingham, etc. R. Co.* v. *Wildman,* 119 Ala. 547, 24 South 548; *Little Rock T. & E. Co.* v. *Kimbro,* 75 Ark. 211, 87 S. W. 121; *Leavenworth Elec. R. Co.* v. *Cusick,* 60 Kan. 590, 57 Pac. 519; *Behen* v. *St. Louis T. Co.;* 186 Mo. 430, 85 S. W. 346; *Omaha & C. B. R. & B. Co.* v. *Levinston,* 49

Neb. 17, 67 N. W. 887; *Metropolitan R. Co.* v. *Jones,* 1 App. D. C. 200; *Asbury* v. *Charlotte E. R. & P. Co.,* 125 N. C. 568, 34 S. E. 654; *Ashtabula R. T. Co.* v. *Holmes,* 67 Ohio St. 153, 65 N. E. 877; *Memphis St. R. Co.* v. *Shaw,* 110 Tenn. 467, 57 S. W. 713. On the ground that a carrier is not an insurer of the safety of its passengers, the following cases announce the doctrine in accord with the principal case, that a conductor or other person in charge of a street car is bound *only to use the highest degree of care to see and know* that no passenger is in a dangerous position. *Colorado & C. R. Co.* v. *McGeorge,* 46 Colo. 15, 102 Pac. 747, 133 Am. St. Rep. 43; *Atlantic R. Co.* v. *Ramsdall,* 117 Ga. 165, 43 S. E. 412; *North Chicago St. R. Co.* v. *Cook,* 145 Ill. 551, 33 N. E. 958; *Wabash River T. Co.* v. *Baker,* 167 Ind. 262, 78 N. E. 196; *Louisville & S. I. T. Co.* v. *Korbe.* (Ind.) 94 N. E. 768; *Millmore* v. *Boston Elev. R. Co.,* 194 Mass. 323, 80 N. E. 445, 11 L. R. A. (N. S.) 140, 120 Am. St. Rep. 558. It is submitted that the same duty is imposed upon the employees of the street railway company under both rules, and that the conflict consists only in the question of the definition of that duty. In the interests of uniformity the courts should agree upon a uniform statement of the rule.

COMMERCE—CONFLICTING STATE AND FEDERAL REGULATION—A North Carolina statute provided that railroads should receive freight for shipment whenever tendered at a regular station, and forward the same over the route selected by the person offering it for shipment; under a penalty of fifty dollars a day for refusal, in addition to all damages incurred. Plaintiff offered goods to defendant's agent within the state, for shipment to a point outside the state, and demanded a bill of lading reading to the latter point. The agent refused the shipment on the ground that no schedule of rates had been filed and published for that route and notified the officer in charge of such matters. Five days later a rate to the destination was arranged between defendant and the connecting lines, filed and published, and the defendant's agent received the goods and issued a bill of lading as requested. Plaintiff brought this action under the statute for the amount of the penalty and damages. *Held,* (reversing the judgment of the state supreme court) that the statute was an attempt to regulate interstate commerce in a field in which Congress had already taken control by the provisions of the Interstate Commerce Act providing that no railroad shall receive freight or passengers for transportation unless the rates for the same have been filed and published. *Southern Ry. Co.* v. *Reid,* (1912) 32 Sup. Ct. 140.

It is well settled that in the absence of action by Congress, a state may enact laws which affect interstate commerce. *Cooley* v. *Board of Wardens of the Port of Philadelphia,* 12 How. 299; *Asbell* v. *State of Kansas,* 209 U. S. 251; *Lake Shore etc Ry. Co.* v. *Ohio,* 173 U. S. 285; *Missouri Pacific Ry.* v. *Larabee* Mills, 211 U. S. 612. *McNeill* v. *Southern Ry.* Co. 202 U. S. 543. But where such law conflicts with a law of Congress, it must yield. *Gulf, Colorado, and Santa Fe Ry.* v. *Hefley,* 158 U. S. 98; *McNaill* v *Southern Ry. Co.* 202 U. S. 543. *Houston & Texas Central Ry. Co.* v. *Mayes,* 201 U. S. 321. Two cases similar to the principal case but involving statutes dealing with interstate